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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------------|---------------------|------------------|
| 09/931,336 | 08/16/2001 | Randy G. Cowan | 00-1914 | 2641 |
| 7590 08/25/2005 | | | | |
| JEFFREY A. PROEHL LEONARD & PROEHL, PROF.L.L.C. 3500 S. FIRST AVE. CIECLE, SUITE 250 SIOUX FALLS, SD 57105-5807 | | EXAMINER HENDERSON, MARK T | | |
| | | ART UNIT 3722 | | PAPER NUMBER |

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/931,336 | Applicant(s) COWAN, RANDY G. | |
| | Examiner Mark T. Henderson | Art Unit 3722 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 9, 10, 26, 27 and 29-33 is/are allowed.
- 6) ☒ Claim(s) 8 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachment I and II</u> |

DETAILED OFFICE ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1, 8, and 27-33 have been amended for further examination. Claims 11-25 and 34 have been canceled. After further review of the amended, the examiner has withdrawn the previous allowable subject matter and has given rejections as stated below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ludwig (EP-833,295A1).

Ludwig discloses in Fig. 1-3 and in Attachment I and II, a label structure having a first axis (6A), a first side (A1), and a second side (B1) both extending parallel to the first axis (6A), a front surface (F) and a back surface (R); a base panel (4) for affixing to a surface (bottle surface in Fig. 1); the base panel having a front face (4a), and a back face (4b) with adhesive (not shown, but used to adhere to bottle); a first leaflet (8 and 9) being positioned adjacent (but not directly adjacent) to the front face of the base panel (4a), the first leaflet comprising a first folded panel with a first fold (16a) extending parallel to the first axis (6a); a second leaflet (10 and 11) being positioned with respect to the first leaflet (8 and 9) such that a portion (8, as seen in Fig. 2) of the first leaflet (8 and 9) is positioned between the second leaflet (10, however not the whole leaflet) and the base panel 4), wherein the second leaflet has a second fold (6b) is parallel to the first axis; a laminating layer (6) overlying the base panel (4), the first leaflet (8 and 9), and the second leaflet (10 and 11), wherein the laminating layer has a back face (6r) being adhered to a portion (as seen in Fig. 3) of the base panel (4); the front face (4a) of the base panel (4, as seen in Fig. 1) has a first area (4c) and a second area (4d), wherein indicia is marked on both areas (see Fig. 1); the first and second leaflets overlying the second area (4d) and not overlying the first area (4c) of the front face (4a); and wherein the first fold of the first leaflet is spaced from the second fold of the second leaflet (see Fig. 3).

Allowable Subject Matter

3. Claims 1-7, 9, 10, 26, 27, and 29-33 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record discloses a label system comprising: a liner; a label structure; a first leaflet having inner page faces; a second leaflet having inner and outer page faces which are adapted for permitting viewing of indicia, and being positioned forward of the first leaflet such that the first leaflet is positioned between the second leaflet and the base panel; and a laminating layer having front and back faces, wherein the back face is adhered to a portion of the first leaflet and a portion of the second leaflet, and wherein the laminating layer is adhered to a portion of the outer face of the front second leaf of the second folded panel of the second leaflet; and including all of the other limitations of the independent claim.

Response to Arguments

Applicant's arguments with respect to claims 8 and 28 have been considered but are moot in view of the new ground(s) of rejection.

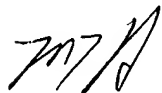
Ludwig is now used to disclose a label structure having a base panel with indicia placed over a first and second area, and having leaflets placed over the second area but not the first area, and further wherein a laminating layer overlies the base panel.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jacques and Baker et al discloses similar label structures.

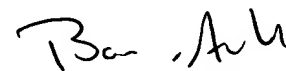
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



MTH

August 16, 2005



BOYER D. ASHLEY
PRIMARY EXAMINER

Fig. 1

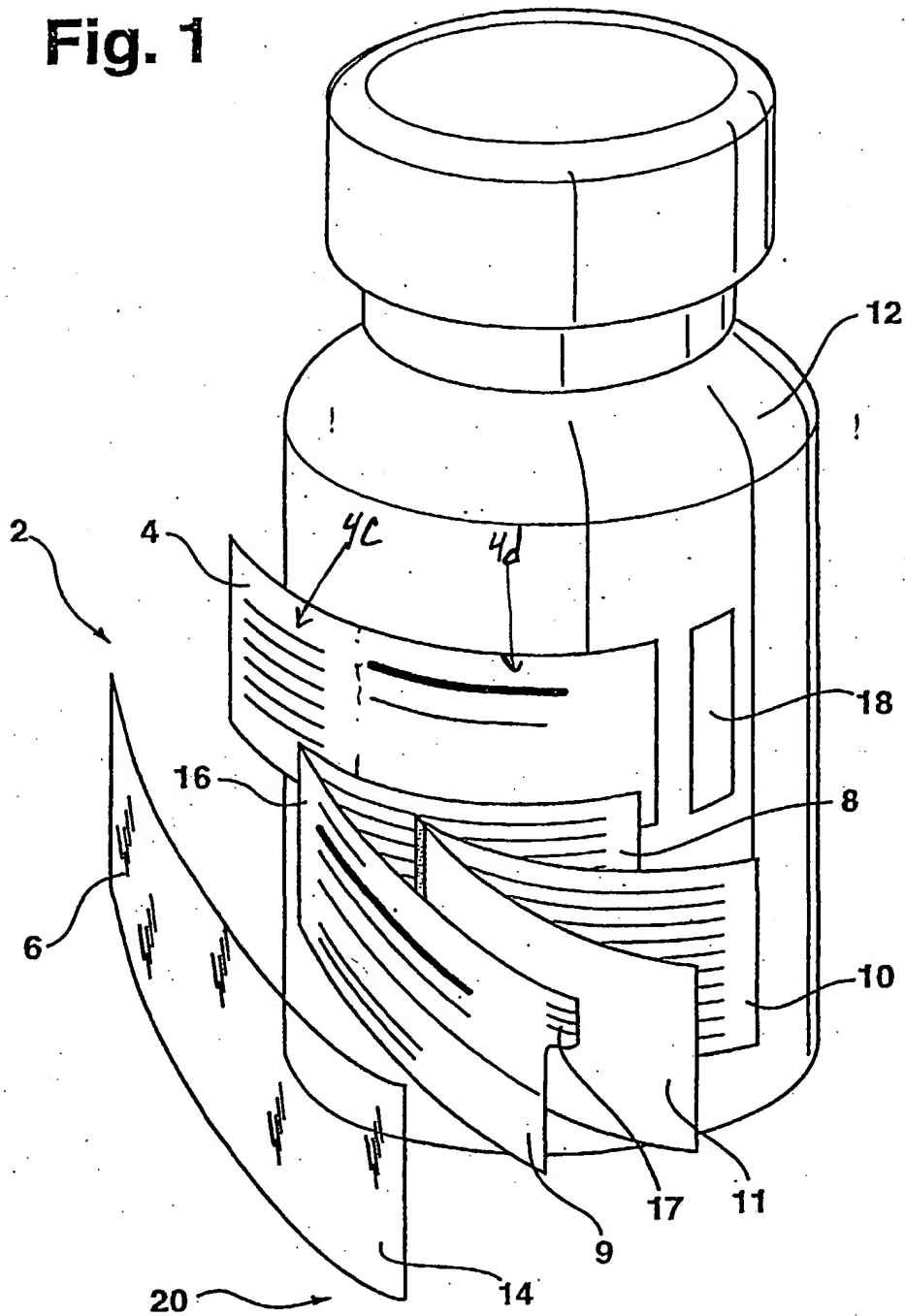


Fig. 2

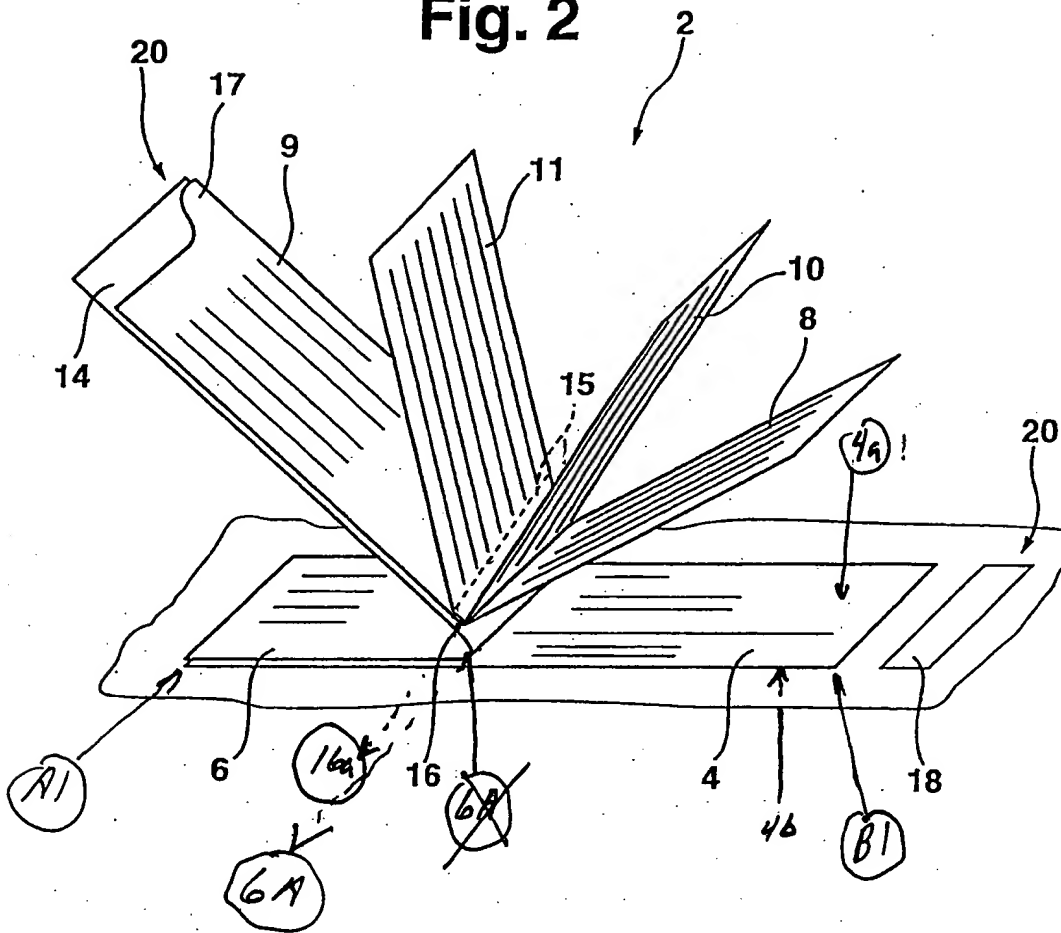


Fig. 3

